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VETERANS' COMPENSATION AMENDMENTS OF 1988

JULY 7, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 4741]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4741) to amend title 38, United States Code, to increase the rates of compensation and dependency and indemnity compensation (DIC) payable to veterans with service-connected disabilities and their survivors, and for other purposes, having considered the same, reports favorably thereon with an amendment, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Page 5, in the table following line 5, strike out "$538" and insert in lieu thereof "$540".

INTRODUCTION

The Administration's proposed fiscal year 1989 budget request submitted earlier this year recommended that increases in the service-connected disability compensation and DIC programs be indexed to the annual change in the Consumer Price Index (CPI) in the same manner as the non-service-connected disability pension program and Social Security. The Administration estimated that the cost-of-living increase for these programs, effective December 1, 1988, would be 4.2 percent, based on the changes in the CPI from the third quarter of calendar year 1987 to the third quarter of calendar year 1988.

On March 22, 1988, the Chairman of the Subcommittee on Compensation, Pension and Insurance, the Honorable Douglas Apple-

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gate, introduced H.R. 4216, a bill that would provide a 4.5 percent cost-of-living adjustment (COLA) effective December 1, 1988; recodify current provisions and amend eligibility criteria applicable to surviving spouses of certain service-connected disabled veterans rated totally disabled at time of death for benefits which may be paid as if the veterans' deaths were service connected; extend the duration of, and expand eligibility for, the temporary program of vocational rehabilitation for certain pension recipients; and authorize the continued operation of the Veterans' Administration Regional Office in the Republic of the Philippines through September 30, 1991.

In its report to the Committee on the Budget, submitted March 10, 1988, the Committee recommended that the First Concurrent Budget Resolution contain new budget authority and outlays for a 4.5 percent COLA, effective December 1, 1988, based on the Congressional Budget Office baseline estimate for the expected change in the Consumer Price Index. However, the budget resolution adopted by the House and Senate for fiscal year 1989, H. Con. Res. 268, contained budget authority for only a 4.2 percent increase.

On April 28, 1988, during a hearing before the Subcommittee on Compensation, Pension and Insurance on H.R. 4216, spokesmen for the Veterans' Administration testified that the Administration strongly supports COLA's based upon actual increases in the cost of living, but that the Administration believes this can best be accomplished by legislation that would provide for an automatic annual increase in compensation rates indexed to the CPI increases.

On June 2, 1988, the Subcommittee approved for consideration by the full Committee a draft bill incorporating the provisions of H.R 4216, but providing a 4.2 percent COLA rather than 4.5 percent, which reflected the allocation of new budget authority for the COLA set forth in H. Con. Res. 268.

On June 3, 1988, a clean bill, H.R. 4741, was introduced by Subcommittee Chairman Applegate incorporating the provisions of the Subcommittee draft bill.

On June 28, 1988, the full Committee ordered H.R. 4741 favorably reported with a technical amendment.

Summary of the Bill

H.R. 4741 as reported, would:

(1) Increase, by 4.2 percent, effective December 1, 1988, the rates of compensation payable to veterans for service-connected disabilities and rates of dependency and indemnity compensation payable to surviving spouses and children of veterans who die of service-connected causes; and increase by 4.2 percent the aid and attendance allowance payable to eligible veterans and surviving spouses, the additional amounts for dependents and survivors, and the clothing allowance for certain veterans;

(2) Recodify existing provisions governing, and amend eligibility criteria applicable to, payment of death benefits at DIC rates to surviving spouses of certain service-connected disabled veterans

rated totally disabled at time of death in the same manner as if the veterans' deaths were service connected;

(3) Expand eligibility for participation in the temporary program of vocational rehabilitation established under Public Law 98–543 to veterans awarded pension prior to such enactment on a voluntary basis and extend the duration of the program for an additional three years, until January 31, 1992; and

(4) Extend the Administrator's authority to operate the VA Regional Office in the Republic of the Philippines due to expire on September 30, 1988, for an additional three years, until September 30, 1991.

Background of the Bill

COMPENSATION

There were 2,202,239 veterans receiving disability compensation as of June 1, 1988. The Veterans' Administration expenditures for disability compensation for fiscal year 1989 are expected to be $8.6 billion.

The basic purpose of the disability compensation program, throughout its history, has been to provide a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability, which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation a veteran must have contracted a disease, suffered an injury which is not the result of willful misconduct, or aggravated an existing disease or injury in the line of duty during active duty service and have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service connection for a disability rests solely with the Veterans' Administration. This determination is based upon the service medical records or other evidence which may be presented to the Veterans' Administration by the veteran. The law provides that if a veteran had service of 90 days or more during time of war or after December 31, 1946, and develops a chronic or tropical disease to a degree of ten percent or more within one year of his discharge from such service, service connection may be granted by presumption. Service connection may be granted by presumption for active tuberculosis or Hansen's disease (leprosy) which becomes manifest to a degree of 10 percent or more within three years of a veteran's discharge from such service and for multiple sclerosis becoming manifest to a 10-percent degree within seven years of a veteran's discharge from such service. In cases of prisoners of war, diseases related to nutritional deficiencies or anxiety states or psychosis which become manifest to a degree of 10 percent or more at any time after service, may be granted service connection on a presumptive basis.

When a claim for service-connected disability benefits is received by the Veterans' Administration, that agency obtains the service medical records and the issue of service connection is generally decided based upon such records. If the service medical records do not establish that the disability was incurred in service, the veteran may submit evidence to substantiate the contention. Generally, this may be by statements from persons with whom the veteran served relating knowledge of the veteran's injury or disease. The Veterans' Administration also would consider the question of entitlement to service connection by presumption if the disability is a chronic disease becoming manifest within the prescribed period of time. If a veteran is granted service connection, the percentage of disability is generally based upon the findings of a VA examination. If a veteran with a service-connected disability should feel at some future time that the disability has increased in severity, evidence of this, usually a statement of recent medical treatment, may be presented to the Veterans' Administration to request reevaluation of the disability. Should the Veterans' Administration deny service connection or deny a request for an increased rating, the veteran may appeal the denial decision to the Board of Veterans Appeals provided the veteran notifies the agency of his or her disagreement with the decision within one year of the date of notification of the decision.

The law provides that a case involving a complex or controversial medical issue may be referred to a medical specialist outside of the Veterans' Administration for an advisory opinion. The law also provides that, if service connection for a veteran's disability has been in existence for 10 or more years, service connection may not be severed except in the case of fraud. The law further provides that a disability rated continuously at or above an evaluation for 20 or more years shall not thereafter be rated at a lesser evaluation.

The VA has established a "Schedule for Rating Disabilities" which is used as the guideline for measuring the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVORS OF VETERANS WHO HAVE DIED OF SERVICE-CONNECTED CAUSES

As of June 1, 1988, there were 267,380 spouses and 45,051 children receiving dependency and indemnity compensation (DIC). These are the survivors of more than 300,000 veterans who either died in service or who died of service-incurred causes. About $2.2 billion is expected to be paid in fiscal year 1989 to the survivors. Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly DIC.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children. Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay-grade and range from $518 for the surviving spouse of an E–1 to $1,327 for the surviving spouse of an O–10. Surviving spouses are entitled to an additional $60 for each child.

There is an additional allowance of $155 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another person.

Eligible surviving spouses who are not so disabled as to require the regular aid and attendance of another person but who, due to disability, are permanently housebound, may be granted a special allowance of $76 monthly in addition to the DIC rate otherwise payable.

If there is no surviving spouse receiving dependency and indemnity compensation benefits but there is a surviving child, the child is entitled to $261 monthly with additional benefits for other children.

When a service-connected disability is found to be the principal or contributory cause of death, such death is considered to be service connected. Such determination is made on a very liberal basis. There are disabilities which by their very nature are so overwhelming that eventual death can be anticipated irrespective of co-existing conditions. For example, even though the primary cause of a veteran's death is non-service-connected, consideration is given to whether co-existing service-connected conditions were of such severity as to have been a material influence in accelerating death. Where death had been so accelerated, it will be considered service connected. The death of any veteran whose service-connected disabilities were the primary cause of death or contributed materially in producing death would, of course, render the survivor basically eligible for service-connected death benefits.

The same benefits provided for those entitled to DIC are also payable to surviving spouses or children of certain veterans whose deaths are not service-connected but who, at death, had been in receipt of total (100 percent) ratings for service-connected disabilities. For entitlement under this provision the 100 percent rating must have been in effect continuously for at least ten years at death; or continuously since service and for at least five years. A surviving spouse must have been married to a veteran for at least two years at the time of death before entitlement exists.

The following table shows by war period the number of surviving spouses and children of service-connected veterans in receipt of survivors' death benefits:

ACTIVE DEPENDENCY AND IMDENITY COMPENSATION CASES

	DIC Beneficiaries		
	Total	Widows	Children
Total	312,431	267,380	45,051
World War I	17,831	17,040	791
World War II	125,669	121,018	4,651
Korean Conflict	30,863	28,859	2,004
Vietnam era	80,485	57,293	23,192
Spanish/American War	58	44	14
Mexican border period	2	2	0
Indian War	0	0	0
Civil War	1	0	1
Regular Establishment	57,522	43,124	14,398

Discussion of the Bill

PERCENT OF INCREASE IN COMPENSATION RATES

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to ensure that inflation does not erode the purchasing power of those receiving compensation and DIC benefits.

From December 1945 through November 1987, the cumulative increase in the Consumer Price Index (CPI) was 534.5 percent. During the same period, the cumulative increase in the compensation rate paid for the totally and permanently disabled service-connected unmarried veteran has been 1078.3 percent.

Title I—Compensation and Dependency and Indemnity Compensation

Sections 2 through 7 of H.R. 4741 would provide, effective December 1, 1988, a 4.2 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation.

As indicated earlier, the Administration proposed indexing these rates to the annual adjustment in the consumer price index in the same manner as the non-service-connected pension program and Social Security benefits. The Committee does not believe such action would be in the best interest of veterans. It is extremely important that the rate increases for compensation and DIC be legislated on a periodic basis by the Congress rather than being tied directly to changes in the CPI. It is argued that indexing the rates of compensation and DIC would obviate the need for annual Congressional action. However, this would remove from the Congressional arsenal a vehicle through which periodic and necessary improvements to the programs may be made. Furthermore, there is precedent for the Congress enacting a higher increase than would otherwise have resulted through indexing. For example, in enacting Public Law 98–576, effective December 1, 1986, the Congress provided a 1.5 percent increase for these service-connected benefits

rather than the 1.3 percent increase reflected by the change in the CPI that would otherwise have resulted. For these reasons, the Committee is rejecting the Administration's indexing proposal.

Should the proposed 4.2 percent rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1988 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1988

		Increase (monthly rate)	
		From	To
Percentage of disability or subsection under which payment is authorized:			
(a)	10 percent	$71	$74
(b)	20 percent	133	139
(c)	30 percent	202	210
(d)	40 percent	289	301
(e)	50 percent	410	427
(f)	60 percent	516	538
(g)	70 percent	652	679
(h)	80 percent	754	786
(i)	90 percent	849	885
(j)	100 percent	1,411	1,470
Higher statutory awards for certain multiple disabilities:			
(k)	(1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss.	63	63
	(2) Limit for veterans receiving payments under (a) to (j) above	1,754	1,828
	(3) Limit for veterans receiving benefits under (l) to (n) below	2,459	2,562
(l)	Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance.	1,754	1,828
(m)	Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance.	1,933	2,014
Percentage of disability or subsection under which payment is authorized:			
(n)	Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis.	2,199	2,291
(o)	Disability under conditions entitling veterans to two or more of the rates provided in (1) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis.	2,459	2,562
(p)	(1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed.	2,459	2,562
	(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed.	2,459	2,562

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1988—Continued

		Increase (monthly rate)	
		From	To
	(3) Blindness with only light perception or less with bilateral deafness (hearing imnpairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed.	2,459	2,562
	(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of.	2,459	2,562
(q)	[This subsection repealed by Public Law 90–493.]		
(r)	(1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates.	1,055	1,099
	(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate.	1,572	1,638
(s)	Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound.	1,579	1,645
(t)	[This subsection repealed by Public Law 99–576.]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$85	$89
Has a spouse and child	143	149
Has no spouse, 1 child	59	61
For each additional child	45	47
For each dependent parent	59	61
For each child age 18–22 attending school	131	137
Has a spouse in nursing home or severely disabled	155	162

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

Pay grade	Increase (monthly rate)	
	From	To
E–1	$518	$540
E–2	534	556

Pay grade	Increase (monthly rate)	
	From	To
E–3	548	571
E–4	583	607
E–5	598	623
E–6	611	637
E–7	641	668
E–8	677	705
E–9	[1] 707	[1] 737
W–1	656	684
W–2	682	711
W–3	702	731
W–4	743	774
O–1	656	684
O–2	677	705
O–3	725	755
O–4	766	798
O–5	845	880
O–6	952	992
O–7	1,029	1,072
O–8	1,128	1,175
O–9	1,210	1,261
O–10	[2] 1,327	[2] 1,383

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time desinated by section 402 of this title, the surviving spouse's rate shall be $795.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,482.

The DIC rate chart in H.R. 4741 reflects the addition of a reference to the Vice-Chairman of the Joint Chiefs of Staff in footnote number 2 to correct an oversight which occurred in the enactment of Public Law 100–227, inadvertently superceding a technical amendment made by section 1314(d) of Public Law 100–180 which added a reference to the Vice-Chairman for purposes of payment of DIC at the higher rate prescribed therein.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From	To
One child	$261	$272
Two children	376	392
Three children	486	506
Each additional child	97	101

Section 8 of H.R. 4741 contains an amendment to the eligibility criteria applicable to surviving spouses of certain service-connected disabled veterans rated totally disabled at time of death for DIC benefits that may be paid as if the veteran's death were service connected. Current law provides that such benefits may be paid to a veteran's surviving spouse if he or she was married to the veteran for not less than two years immediately preceding the veteran's

death. This provision would conform the marriage requirements to those applicable to surviving spouses of veterans whose deaths are service connected.

Temporary Program of Vocational Rehabiilitation for Pension Recipients

Section 9 of H.R. 4741 contains provisions to expand eligibility for participation in the temporary program of vocational rehabilitation established by Public Law 98–543 for certain pension recipients. It would allow veterans who were awarded pension prior to the current program period, which began on February 1, 1985, to participate in the program on a voluntary basis. Under current law, the program is available only for those veterans who were awarded pension after January 31, 1985. The Committee believes that the extension of program eligibility to a larger pool of pension recipients is a logical extension of the program's objectives which will serve to provide a greater opportunity for this group to return to the mainstream of productive employment.

Public Law 100–227 increased the number of evaluations which may be conducted under the program, from 2,500 to 3,500, after receiving testimony that the agency would have to discontinue providing evaluations with nearly three months remaining in the program year ending on January 31, 1988. Section 9 would remove any limitation on the number of evaluations to insure that all veterans seeking to participate in the program may have the opportunity to determine whether vocational rehabilitation is reasonably feasible. Although removing this limitation, the Committee does not anticipate that the amendment expanding program eligibility will result in an increase in the number of evaluations over the current level of 3,500 because the current requirement that the Administrator make a preliminary finding that the veteran has a good potential for achieving employment before providing an evaluation is unchanged.

Section 9 also extends the duration of the temporary program, as well as the three-year protection of health-care eligibility afforded individuals whose pension is terminated by reason of income from work or training, for an additional three years, until January 31, 1992, in order to allow the Congress further opportunity to evaluate the program's overall success.

Continuation of Authority to Operate Manila Regional Office

Section 10 of H.R. 4741 would, as requested by the Administrator, extend the Administrator's authority to operate the VA regional office in the Republic of the Philippines for an additional three-year period, until September 30, 1991. Present authority is set to expire on September 30, 1988.

Section-by-Section Analysis of H.R. 4741

TITLE I—RATE INCREASES

Section 1

States that this act may be cited as the Veterans' Compensation Amendments of 1988.

Section 2

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 2 would amend subsections (a) through (j) of present section 314 to increase by 4.2 percent the basic monthly rates of compensation paid to veterans with service-connected disabilities rated from 10 to 100 percent. The Committee bill would also increase by 4.2 percent:

The limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314;

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance; and

The rate payable under subsection (s) to veterans who are permanently housebound.

Subsection (b) of section 2 would authorize the Administrator to increase by 4.2 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38. Public Law 85–857 generally codified in title 38 of the United States Code the law relating to veterans' benefits; section 10 of that law provides that any person who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, is to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, so long as he or she remains eligible.

Section 3

Would amend paragraph (1) of present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children, or dependent parents, to increase those allowances by 4.2 percent. Under paragraph (2) of present section 315, which is not amended by the Committee bill, the additional compensation payable for dependents to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent receives 30 percent of that amount specified in paragraph (1) of section 315.

Section 4

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving com-

pensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 4.2 percent.

Section 5

Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service connected.

Clause (1) of section 5 would amend subsection (a) of present section 411 to increase by 4.2 percent the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran. The DIC rate payable to the surviving spouses of veterans who had attained the grades of E–1 through 0–10 would be increased by 4.2 percent, and proportionate increases would be provided in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. Footnote 2 would be amended to add "or Vice-Chairman" after "Chairman" (of the Joint Chiefs of Staff) for purposes of payment of DIC to the surviving spouse of such veteran at the specified higher rate.

The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under proposed new section 418 of title 38 (as would be added by section 8) to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Clause (2) of section 5 would amend subsection (b) of present section 411 to increase by 4.2 percent the dependents' allowance for each child under the age of 18 to a surviving spouse receiving DIC.

Clause (3) of section 5 would amend subsection (c) of present section 411 to increase by 4.2 percent the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

Clause (4) of section 5 would amend subsection (d) of present section 411 to increase by 4.2 percent the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

Section 6

Subsection (a) of section 6 would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service-connected, to provide a 4.2 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled. Benefits payable at DIC rates under proposed new section 418 of title 38 (as would be added by section 301) to the surviving children of certain veterans compensated at the 100 percent rate whose deaths were not service connected

would also be automatically increased as a result of this increase under section 413.

Subsection (b) of section 6 would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Paragraph (1) of subsection (b) would amend subsection (a) of present section 414 to provide a 4.2 percent increase in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (2) of subsection (b) would amend subsection (b) of present section 414 to provide a 4.2 percent increase in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (3) of subsection (b) would amend subsection (c) of present section 414 to provide a 4.2 percent increase in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Section 7

Would provide that the amendments made by this title shall take effect on December 1, 1988.

Section 8

Paragraph (a)(1) of section 8 would add a new section 418 to title 38 as follows:

Subsection (a) of new section 418 would provide that the Administrator shall pay benefits under chapter 13 to the surviving spouse and children of a veteran described in subsection (b) in the same manner as if the veteran's death were service connected.

Subsection (b) of new section 418 would provide that a deceased veteran referred to in subsection (a) means a veteran who was in receipt of service-connected compensation and was totally disabled for a period of ten or more years immediately preceding death or, if so rated for a lesser period, was continuously rated totally disabled for a period of not less than five years from date of discharge or other release from active duty.

Subsection (c) of new section 418 would provide that benefits under chapter 13 by reason of this section may not be paid to a surviving spouse of a veteran unless the marriage to the veteran occurred before the expiration of fifteen years after the veteran's discharge, the surviving spouse was married to the veteran for one year or more, or a child was born of the marriage.

Subsection (d) of new section 418 provides for an offset of death benefits that would otherwise be payable under this section if a surviving spouse or child receives any money or property of value pursuant to an award in a judicial proceeding, or settlement, based on the death of the veteran.

Subsection (e) of new section 418 would provide that for the purposes of sections 1448(d) and 1450(c) of title 10, United States Code, eligibility for benefits under this section shall be deemed eligibility for dependency and indemnity compensation.

Paragraph (a)(2) of section 8 would amend the table of sections at the beginning of chapter 13 of title 38 by inserting a catch line relating to new section 418.

Subsection (b) of section 8 would make conforming amendments to section 410 of title 38 by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

Subsection (c) of section 8 would provide that the amendments made by this section shall take effect on October 1, 1988.

Section 9

Subsection (a) of section 9 would amend section 524(a) by expanding eligibility criteria for participation in the temporary program of vocational rehabilitation to include, on a voluntary basis, veterans who were awarded pension prior to February 1, 1985, and by removing the restriction on the number of evaluations which may be conducted each program year by the VA.

Subsection (b) would amend sections 524(a)(3) and 525(b)(2) by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992", to extend the duration of the temporary program of vocational rehabilitation and application of the temporary protection of health-care eligibility provision for an additional three-year period.

Section 10

Would amend section 230(b) by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991", extending the authority of the Administrator to operate the VA regional office in the Republic of the Philippines for an additional three-year period.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Inflationary Impact Statement

The enactment of the reported bill would have no inflationary impact.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee received the following letter from the Congressional Budget Office on the reported bill:

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, DC 20515

June 13, 1988

Honorable G. V. Montgomery
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached cost estimate for H.R. 4741, the Veterans' Compensation Amendments of 1988, as ordered reported by the Subcommittee on Compensation, Pension, and Insurance of the House Committee on Veterans' Affairs, June 2, 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

James L. Blum
Acting Director

Attachment

cc: Honorable Gerald B. H. Solomon
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 13, 1988

1. BILL NUMBER: H.R. 4741

2. BILL TITLE: Veterans' Compensation Amendments of 1988.

3. BILL STATUS:

As ordered reported by the Subcommittee on Compensation, Pension, and Insurance of the House Committee on Veterans' Affairs, June 2, 1988.

4. BILL PURPOSE:

To increase the rates of disability compensation and dependency and indemnity compensation (DIC), and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Direct Spending:					
Budget Authority	373	443	437	431	426
Estimated Outlays	336	443	437	432	427
Authorization:					
Estimated Authorization Level	2	3	1	*	0
Estimated Outlays	2	3	1	*	0

* Less than $500,000.

The cost of this bill would fall in budget function 700.

Basis of Estimate

The following section-by-section cost analysis only addresses those sections of the bill that could be expected to have a significant impact on the federal budget.

Sections 2-7. These sections would increase the monthly rates of disability compensation and DIC by 4.2 percent, effective December 1, 1988.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Budget Authority	373	443	437	431	426
Estimated Outlays	336	443	437	432	427

This estimate was calculated by multiplying the average costs in each year for all disability compensation cases and for all DIC cases by 4.2 percent. The resulting average increase in costs per year were then multiplied by the estimated number of cases in each program each year to calculate the annual cost. Future average cost and caseload levels were projected according to historical trends for recipients by period of service.

Section 9. This section would extend for three years, through January 31, 1992, the authority of the VA to provide vocational rehabilitation to recipients of veterans pension benefits. The provision would also remove the limitation that only 3,500 veterans can be evaluated for training each year. Further, the provision would allow veterans to train who were on the pension rolls prior to the start of the program on February 1, 1985.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Estimated Authorization Level	2	3	1	*	0
Estimated Outlays	2	3	1	*	0

* Less than $500,000.

The above estimate is based on the participation rates experienced during the pilot program. From the start of the program on February 1, 1985 through December 1, 1987, 6,655 new pension veterans were evaluated to determine their suitability for training. It is estimated that approximately 3,550 veterans newly awarded a pension would be evaluated for training each year during the extension period.

Section 9 would also authorize the VA to offer evaluations and training to veterans who were receiving pensions prior to start of the pilot program. It is estimated that around 11,000 such veterans would request evaluations. The evaluations were assumed to be conducted at a rate of approximately 525 per month during the first two years of the extension period.

Should the extension of the program be fully funded, additional costs would be incurred for training those veterans who are determined to be capable of achieving full-time employment. Of the 2,045 veterans deemed suitable for training during the pilot program, only 470 veterans (23 percent) have participated in training programs so far. Based on this experience, it is estimated that more than 2,300 veterans would participate in some training or placement

86-378 0 - 88 - 2

program but that nearly 80 percent of these veterans would withdraw from the program without obtaining a job. Because of the relatively low participation rate and high dropout rate, it is estimated that the training costs charged to the Readjustment Benefits account would be less than $500,000 a year.

Those veterans who complete training and find jobs have their pensions reduced or eliminated because of their new earnings. Although the pilot program has resulted in only 11 veterans leaving the pension rolls and 10 veterans receiving reduced benefits, 70 percent of the veterans entering training through the pilot program are still in training. If funds are appropriated for the extension of the evaluation and training program, it is estimated that nearly 500 participating veterans would eventually find employment, thereby reducing pension costs by the amounts shown below:

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Budget Authority	0	-*	-1	-1	-2
Estimated Outlays	0	-*	-1	-1	-2

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

The Congressional Budget Office has determined that the budgets of state and local governments would not be significantly affected by enactment of this bill.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE:

On May 13, 1988, CBO submitted an estimate of H.R.4216. This bill was identical to H.R.4741, except that H.R.4216 would have increased compensation rates by 4.5 percent.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820).

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director
for Budget Analysis

AGENCY REPORTS

The Committee received the following letters from the Veterans' Administration regarding legislation similar to the reported bill.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

MAY 25 1988

Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to respond to your request for a report on H.R. 4216, 100th Congress, entitled "Veterans' Compensation Amendments of 1988." This measure, if enacted, would authorize cost-of-living increases in the statutory rates of disability compensation and dependency and indemnity compensation (DIC), make minor changes in DIC eligibility, extend vocational rehabilitation benefits for certain pension recipients, and continue the operation of the VA Regional Office in the Philippines.

H.R. 4216 would authorize 4.5 percent cost-of-living increases in the statutory rates of compensation and DIC benefits for veterans and survivors. The proposed rate adjustment is no doubt designed to assure that these beneficiaries keep abreast of the steadily increasing cost of living. Title I of our draft bill, transmitted to the Congress on April 1, 1988, which would index compensation COLA's, is designed for the same purpose, though the approach differs. Therefore, I will discuss these measures together. Both propose an effective date of December 1, 1988, for the next cost-of-living increase.

Disability compensation benefits are payable under chapter 11 of title 38 to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

DIC benefits are payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated totally disabled for a specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if

2.

Honorable G.V. (Sonny) Montgomery

the surviving spouse is disabled. Children over the age of 18 who become helpless before reaching that age may receive DIC, as may those between ages 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC.

The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change. In recent years, compensation adjustments have generally been keyed to indexed COLA's in Social Security and VA pension. However, these have not been automatic. Rather, they have been accomplished by the enactment of separate public laws designed for that purpose, the last being Public Law No. 100-227 (1987). Since 1973, legislation has been enacted every year but one (1983) granting increases in these benefits to compensate for increases in the cost of living. We have consistently supported these adjustments.

The Administration strongly supports COLA's based upon actual increases in the cost of living. However, we believe this may best be done by legislation that would provide for an automatic annual increase in compensation rates indexed to the periodic Consumer Price Index (CPI) increases, as in the case of pension and a number of other governmental benefits. Tying compensation and DIC rates to the CPI would assure veterans and their survivors that they would receive full increases, commensurate with inflation, in a timely manner. Had such a provision been in place last year, there would not have been the unfortunate delay in giving effect to the most recent compensation COLA. Our proposal would also save Congress from the difficulty of regularly considering new veterans' COLA legislation, as it has been required to do virtually every year for over a decade and twice in the same year in one instance, and provide more time for program oversight.

Accordingly, while we do support the concept of the 4.5 percent cost-of-living increase embodied in H.R. 4216, we feel, for the reasons stated above, that it should be amended to index future compensation and DIC COLA's to annual changes in the CPI.

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Honorable G.V. (Sonny) Montgomery

We estimate the first 5-year cost resulting from enactment of the COLA in H.R. 4216, as drafted, would be as follows:

Fiscal Year	Cost ($ millions)
1989	401.5
1990	479.9
1991	477.9
1992	475.8
1993	473.5

Based on the 4.2 percent COLA estimated for fiscal year 1989, and the projected changes in the CPI for fiscal years 1990 through 1993, and taking into consideration the 4.2 percent compensation/DIC increase effective December 1, 1987, it is estimated that automatic increases in compensation and DIC rates under title I of the Administration's draft bill would result in the following additional costs, which are included in the President's 1989 Budget.

Fiscal Year	Cost ($ millions)
1989	360.9
1990	786.2
1991	1,188.7
1992	1,542.8
1993	1,850.0

The difference in costs in 1989 between H.R. 4216 and the Administration's proposal is due entirely to the difference between the 4.5 percent COLA in H.R. 4216 and the 4.2 percent COLA assumed by the Administration. Under the Administration's proposal, costs would vary depending upon the actual COLA. The 1990-93 amounts for the Administration's proposal show the compounding effect of each year's estimated COLA. These are not included in the 1990-93 cost estimates for H.R. 4216.

There would be no significant administrative costs associated with H.R. 4216 or title I of our draft bill.

4.

Honorable G.V. (Sonny) Montgomery

H.R. 4216 also proposes changes, primarily of a technical nature, to Section 410(b)(1) of title 38, which currently authorizes DIC, under specified conditions, to surviving spouses and children of veterans whose deaths were not service-connected but who were continuously paid compensation for total service-connected disabilities for prescribed periods. Section 410(b)(2) provides for offset against benefits for any amount the claimant may receive as judicial or other damages for the death of the veteran. H.R. 4216 would strike section 410(b) and move these provisions to a new section 418, "Benefits for survivors of certain veterans rated totally disabled at time of death."

The bill would, however, make one substantive change. Section 410(b)(1) presently requires that, for this benefit to be payable to a surviving spouse, he or she must have been married to the veteran for at least two years immediately preceding the veteran's death. H.R. 4216 would change the marriage requirement so as to qualify a surviving spouse who "was married to the veteran for one year or more."

We do not support the substantive provision of this bill. Present law, at section 404(1), requires one year of marriage for eligibility for DIC where death is service connected. Because section 410(b) generously confers entitlement to DIC in cases of nonservice-connected death, it is not unreasonable that there should be some higher standard required, i.e., the present two-year marriage provision. Otherwise, we have no objection to the technical amendments this measure would make. The effective date of the removal of section 410(b) and addition of section 418 would be October 1, 1988.

There are no statistical data on the number of surviving spouses who apply for and are denied benefits as a result of being married to the veteran for at least one year, but less than two years, prior to the veteran's death. Therefore, we are unable to provide costs for this section of the bill.

H.R. 4216 would continue the current temporary program of vocational training for certain new pensioners provided under section 524 of title 38, with the following amendments: the termination date would be extended from January 31, 1989, to January 31, 1992; there would be no limitation on the number of evaluations of veterans in any program year versus the current limit of 3,500; veterans whose pensions had been awarded prior to the program period could be provided an evaluation if review of their applications indicated they had good employment potential; and terminations of pension entitlement arising as a consequence of the provisions of section 525 (under which the

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Honorable G.V. (Sonny) Montgomery

veteran's health-care eligibility is protected if he or she loses pension benefits because of income from work or training) would be extended from January 31, 1989, to January 31, 1992.

Based on our experience with respect to the present program, we do not favor continuance of the requirement that each veteran below age 50 participate in an evaluation. This requirement was useful in establishing the extent of vocational potential among pensioners below age 50 but, having fulfilled this function, it now serves as a barrier to program effectiveness in view of the proportion of veterans for whom achievement of a vocational goal is not reasonably feasible. We favor a voluntary-participation program. We also oppose removal of the limitation on the number of evaluations which can be provided during any one program year, since we believe this limitation is an aid in making the best use of limited staff time. Our report on this program contains recommendations we deem helpful in formulating a sound vocational rehabilitation program for VA pensioners. Based on expenditures for this program to date, we estimate the cost of the extension proposed in H.R. 4216 to be less than $1 million in any fiscal year.

Finally, H.R. 4216 would extend to September 30, 1991, the Veterans Administration's authority to operate a Regional Office in the Philippines. Our present authority expires September 30, 1988.

In our experience, a Regional Office in the Philippines is the most efficacious means of administering VA benefits for Filipino beneficiaries. We support this extension, which would enable us to continue meeting the needs of our Filipino beneficiaries in a cost-effective manner. The extension would entail the following approximate administrative costs:

Fiscal Year	Cost ($ thousands)
1989	1,660
1990	1,688
1991	1,714

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Honorable G.V. (Sonny) Montgomery

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 4216 to the Congress.

Sincerely,

THOMAS K. TURNAGE
Administrator

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

APR 1 1988

Honorable Jim Wright
Speaker of the House
of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I am pleased to forward a draft bill to provide automatic increases in the rates of disability compensation to veterans and dependency and indemnity compensation (DIC) to surviving spouses and children, and for other purposes. As you are aware, such automatic adjustments have, since 1979, been provided under 38 U.S.C. § 3112 for disability and death pension, and DIC for dependent parents. Except for sections 202 and 305, all the substantive provisions of the enclosed draft bill are, with minor technical changes, identical to those contained in the draft bill submitted on March 31, 1987, entitled "Veterans' Compensation and Benefits Improvement Act of 1987", introduced as S. 940 and H.R. 2011. I respectfully request that the draft bill be referred to the appropriate committee and enacted promptly.

INDEXING COMPENSATION AND DIC RATES

Title I would authorize automatic annual increases in the rates of disability compensation for veterans, and DIC for surviving spouses and children, based upon changes in the consumer price index (CPI).

Disability compensation benefits are payable under chapter 11 of title 38 to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Dependency and indemnity compensation benefits are payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated totally

disabled for a specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over the age of 18 who become helpless before reaching that age may receive DIC, as may those ages 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC.

The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change. In recent years, compensation adjustments have generally been keyed to indexed cost-of-living allowances (COLA's) in Social Security and VA pension. However, these adjustments have not been automatic. Rather, they have been accomplished by the enactment of separate public laws designed for that purpose, the last being Public Law No. 100-227, approved by the President on December 31, 1987. Since 1973, legislation has been enacted every year but one (1983) granting increases in these benefits to compensate for increases in the cost of living. This Administration has consistently supported these adjustments.

As you are aware, H.R. 2945, which became Public Law No. 100-227, was not presented to the President until December 22, 1987. Even though the rate increases contained therein were effective December 1, 1987, the timing of the COLA enactment resulted in beneficiaries not receiving the first increased payments until issuance of the March 1988 checks, due to necessary administrative adjustments.

Tying compensation and DIC rates to the CPI would save Congress the difficulty of regularly considering new veterans' COLA legislation, as it has been required to do virtually every year for over a decade and twice in the same year in one instance. It would also eliminate COLA delays such as that experienced with Public Law No. 100-227, and would ensure full and timely benefit adjustment to veterans and their survivors.

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Honorable Jim Wright

Based on the 4.2 percent COLA estimated for fiscal year 1989, and the projected changes in the CPI for fiscal years 1990 through 1993, and taking into consideration the 4.2 percent compensation/DIC increase effective December 1, 1987, it is estimated that automatic increases in compensation and DIC rates under this proposal would result in the following additional costs, which are included in the President's 1989 Budget.

Fiscal Year	Cost
1989	$ 360,900,000
1990	786,200,000
1991	1,188,700,000
1992	1,542,800,000
1993	1,850,000,000
Total (5 years)	$5,728,600,000

There could be a small administrative savings associated with the proposal, since VA could process benefit checks with the COLA adjustment in a timely and orderly way.

Title II of the draft bill contains two amendments designed to assure equity in benefit eligibility determinations.

LIBERALIZING CLOTHING ALLOWANCE ELIGIBILITY

Current law, 38 U.S.C. § 362, provides that a clothing allowance may be paid to a veteran, who, because of service-connected disability, wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Administrator determines tends to wear out or tear the veteran's clothing.

Section 201 of the draft bill would amend section 362 to authorize the Administrator to provide a clothing allowance in those cases in which the prescribed use of medication permanently stains or otherwise damages the veteran's clothing.

Veterans with skin disorders have reported that the medications used in treatment of their conditions irreparably stain their clothing. The VA has learned that the medication used to treat some unusual skin conditions may in fact

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Honorable Jim Wright

cause stains which cannot be removed. Accordingly, it is proposed that the VA be authorized to make a determination, on a case-by-case basis, whether medication for a service-connected skin condition causes such damage to clothing as to require payment of a clothing allowance.

Benefit and administrative costs for this proposal would be insignificant, taking into account the amount of the authorized clothing allowance payment and the extremely small number of veterans who would be entitled.

CLARIFYING INCOME EXCLUSION FOR CASUALTY LOSSES

At present sections 415(f)(1)(I) and 503(a)(5) of title 38 exclude the proceeds of "fire insurance" policies for parents' DIC and pension income computation purposes. Section 202 of the draft bill would amend these sections to expand the current "fire insurance" exclusion to cover comparable payments from any source received by a parents' DIC recipient or a VA pensioner to replace or restore the value of real or personal property damaged, destroyed, or lost due to any cause. The amount to be excluded from income would be limited to the fair market value of the property involved as of the date of the loss. The present exclusion is too limiting. There is no valid reason to exclude reimbursement for loss due to other casualty losses, or to limit the exclusion to reimbursement by insurance and not take into account reimbursement from another source.

Costs cannot be estimated since no data are available to show the number of cases that would be affected or the dollar amount of the proposed excluded payments. No additional administrative costs would arise because the adjudication of cases would remain the same.

Title III of the draft bill proposes five amendments to existing law, one to extend certain survivors' benefits to a small, overlooked group, and four to facilitate the proper administration and recovery of Government benefit funds.

EXTENDING REPS BENEFITS TO SECTION 412 RECIPIENTS

Section 412 of title 38, United States Code, provides for payment by the VA of a special monthly allowance to the surviving dependents of a veteran who dies from service-connected causes and who is not fully and currently insured

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Honorable Jim Wright

under title II of the Social Security Act. The monthly allowance is equal to the amount which would have been paid to the survivors under the Social Security Act had the veteran been fully and currently insured at the time of death. Section 412 benefits are intended to place total benefits for survivors of veterans without full social security coverage on a par with those of survivors of fully-covered veterans.

Public Law No. 97-35 amended the Social Security Act to terminate mother's insurance benefits for a surviving spouse when the last child of the insured individual reaches age 16, rather than age 18, and to eliminate child's insurance benefits for post-secondary-school students and for secondary-school students over the age of 19. Subsequently, section 156 of Public Law No. 97-377 essentially restored benefits eliminated by Public Law No. 97-35 for survivors of veterans who died of service-connected causes incurred or aggravated prior to August 13, 1981. However, these benefits, furnished under the Reinstated Entitlement Program for Survivors (REPS), are payable only to those parents and students who have basic eligibility for social security benefits. Those who are receiving the equivalent of social security benefits under 38 U.S.C. § 412 are not entitled to REPS benefits.

Our proposal in section 301 would amend the free-standing provisions of Public Law No. 97-377, § 156, to include not only those survivors eligible for social security benefits, but also those entitled to benefits under 38 U.S.C. § 412 in lieu of social security benefits. This would further congressional intent in enacting 38 U.S.C. § 412, to assure that the survivors of a veteran receive the same level of benefits regardless of whether the veteran was fully insured under the social security system. The proposed amendment would achieve equity by extending REPS coverage to survivors of veterans deemed to have been fully insured pursuant to section 412, thereby placing them on the same status with regard to such benefits as survivors whose work history actually met the tests for basic social security eligibility.

In 1987, there were only 225 outstanding awards of section 412 benefits, resulting in an annual benefit cost of $697,000. The population covered by this proposal would be a small portion of those receiving section 412 benefits in

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Honorable Jim Wright

any given year. Therefore, the benefit cost would be insignificant, i.e., less than $100,000 per year.

COLLECTING DEBTS BY ADMINISTRATIVE OFFSET

Sections 302 and 303 deal with collection of indebtedness by administrative offset. Section 302 would amend 38 U.S.C. § 3114 to authorize the Administrator to request that a uniformed service paying retired or retainer pay to a person collect such person's indebtedness to the VA by offset of such retired or retainer pay. The provision would apply where the indebtedness resulted from such person's participation in the compensation or pension program.

Conversely, section 303 would amend 38 U.S.C. § 3101 to authorize offset from veterans' disability compensation and pension to collect overpayments of military retired pay and retainer pay.

In 1986, Congress enacted an amendment to 38 U.S.C. § 3101 authorizing offset of veterans' compensation and pension to collect indebtedness associated with such veterans' participation in the Survivor Benefit Plan (SBP) and Retired Serviceman's Family Protection Plan (RSFPP). (Section 504 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986). The explanatory statement accompanying that legislation indicated Congress would consider allowing collection of retired and retainer pay overpayments from veterans' benefits if reciprocal authority were provided for collection by the Department of Defense (DoD) of debts owed to the VA. The proposed amendment to section 3114 would provide such reciprocity by specifically authorizing the Administrator to request collection by offset from payments made by uniformed services and directing the heads of such services to act upon such requests.

The amendment to section 3101 would address a problem created by the eligibility of many veterans under both military retired pay and veterans' benefit programs. Concurrent receipt of military retired pay and veterans' disability compensation or pension is prohibited by 38 U.S.C. § 3104. However, through errors in reporting or coding of information, the service department concerned may not be informed that an applicant for VA benefits has waived military retired pay. Thus, an overpayment of retired pay may occur. While administrative measures, such as a computerized interagency data exchange program, are helping to identify and

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Honorable Jim Wright

correct instances of erroneous concurrent payments, initial clerical errors and deliberate misreporting by recipients will continue to cause overpayments in some cases.

In many instances, outstanding balances can be offset against future entitlements by the agency making the overpayment. Sometimes, however, disbursements by the overpaying agency are discontinued upon discovery of dual eligibility and election of benefits. In such cases, collection through judicial proceedings is generally not cost-effective, and the only remaining recourse is to future entitlements owing from another agency. However, withholding of veterans' benefits to satisfy the claims of creditors has long been barred by 38 U.S.C. § 3101(a). The VA has consistently interpreted that provision as prohibiting, except on a voluntary basis, offset of veterans' benefits to satisfy indebtedness arising out of programs administered by other Federal agencies. Authorization for collection of military retirement overpayments from veterans' benefits is necessary if overpayments are to be effectively recovered.

These offset proposals are tailored to assure protection of the rights of VA beneficiaries. For example, the provisions would continue the policy of Congress, the VA, and the Comptroller General that the debts of one individual should not be collected through offset of benefits payable to another person. Collections authorized by these amendments would be conducted in accordance with the procedural requirements of 31 U.S.C. § 3716, and applicable waiver rights under the veterans' benefit statutes would be preserved.

The savings which would result from enactment of these provisions are undetermined, although the provisions would clearly improve the efficiency of recovery of the targeted overpayments.

REQUIRING DISCLOSURE OF SOCIAL SECURITY NUMBERS

Section 304 of our proposal would amend section 3001 of title 38 to authorize the VA to require mandatory disclosure of claimants' and dependents' social security numbers (SSN's) in all claims for disability and death benefits.

Section 7(a) of the Privacy Act of 1974, Public Law No. 93-579, prohibits any Federal, State, or local government agency from denying to any individual any right,

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Honorable Jim Wright

benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security number. However, this prohibition does not apply to any disclosure required by Federal statute, or for any agency maintaining a system of records in existence and operating before January 1, 1975, if disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. It further requires that any Federal agency which requests such a number shall inform that individual whether that disclosure is mandatory or voluntary.

Currently, limited authority exists for mandatory disclosure of claimants' and dependents' social security numbers for pension claims and for compensation claims specifically affected by "outside income," as described in 38 C.F.R. § 1.575. Section 304 of our proposal would, in accordance with the Privacy Act, expand this authority to require mandatory disclosure of claimants' and dependents' social security numbers (where such number has been assigned) for all claims for disability and death benefits. This section would not require persons to obtain social security numbers, but would simply require them to report to the VA social security numbers which have been issued by the Social Security Administration.

The current requirement of mandatory submission of social security numbers in claims for VA benefits affected by "outside income" was intended to assist VA in verifying reported income so as to detect and eliminate fraud and abuse. Subsequently, as the Administration's and private sector's focus on prevention of fraud, waste, and abuse has intensified, additional areas which require monitoring have become apparent. Benefits which may <u>not</u> be contingent upon income also require monitoring to protect against fraud. For example, dependency and indemnity compensation may not be paid concurrently with Survivor Benefit Program payments made by the Department of Defense. Compensation may not be paid concurrently with military retired pay or drill pay for reserve duty. To control effectively against such unwarranted dual payments, cross checking to verify information establishing the right to benefits is required.

Some identifying information (such as names and birth dates, which are frequently used in verification) may not conclusively establish identities, due to the frequency with

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Honorable Jim Wright

which individuals have common names and birth dates. As each individual's social security number is unique, it is the most reliable identifier available.

Costs to gather and maintain SSN's would be insignificant, although revision of some VA forms would be needed in order to obtain the information in routine fashion.

EXTENDING AUTHORITY FOR REGIONAL OFFICE IN PHILIPPINES

Finally, section 305 of the draft bill would amend section 230(b) so as to extend from September 30, 1988, until September 30, 1992, the Administrator's authority to maintain a regional office in the Republic of the Philippines.

The VA administers programs providing compensation, pension, and education benefits, through the VA regional office in Manila, to Filipinos who were in or attached to the United States Armed Forces during World War II. During FY 87, over $122 million in benefits were paid.

Operating a regional office in the Philippines is the most cost-effective means of administering VA programs for Filipino beneficiaries. This proposal would extend the operation of the VA regional office in Manila until September 30, 1992.

The Department of Veterans Benefits would continue to incur the following costs to operate a regional office in the Philippines:

Fiscal Year	Staff Years	Administrative Costs (in thousands)
1989	130	$1,660
1990	130	1,688
1991	130	1,716
1992	130	1,744

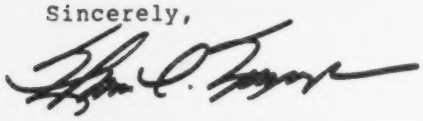
The above costs are included in the President's 1989 budget.

10.

Honorable Jim Wright

Advice has been received from the Office of Management and Budget that there is no objection to the submission of the draft legislation and that its enactment would be in accord with the program of the President.

Sincerely,



THOMAS K. TURNAGE
Administrator

Enclosure

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

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CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * * * *

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES; EMPLOYEES

§ 230. Central and regional offices

(a) * * *

(b) The Administrator may exercise authority under this section in territory of the Republic of the Philippines until September 30, [1988] *1991.*

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PART II—GENERAL BENEFITS

* * * * * * *

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

* * * * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be [$71] *$74;*

(b) if and while the disability is rated 20 percent the monthly compensation shall be [$133] *$139;*

(c) if and while the disability is rated 30 percent the monthly compensation shall be [$202] *$210;*

(d) if and while the disability is rated 40 percent the monthly compensation shall be [$289] *$301;*

(e) if and while the disability is rated 50 percent the monthly compensation shall be [$410] *$427;*

(f) if and while the disability is rated 60 percent the monthly compensation shall be [$516] *$538;*

(g) if and while the disability is rated 70 percent the monthly compensation shall be [$652] *$679;*

(h) if and while the disability is rated 80 percent the monthly compensation shall be [$754] *$786;*

(i) if and while the disability is rated 90 percent the monthly compensation shall be [$849] *$885;*

(j) if and while the disability is rated as total the monthly compensation shall be [$1,411] *$1,470;*

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $63 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,754] *$1,828* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$2,459] *$2,562* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,754] *$1,828;*

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,933] *$2,014;*

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be [$2,199] *$2,291;*

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would enti-

tle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$2,459;] *$2,562;*

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$2,459.] *$2,562.* In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,459.] *$2,562.* In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,459.] *$2,562.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$2,459.] *$2,562.* Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

(r) subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,055;] *$1,099;* or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance

allowance at the rate of [$1,572,] *$1,638,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,579.] *$1,645.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, [$85;] *$89;*

(B) has a spouse and one or more children [$143 plus $45] *$149 plus $47* for each child in excess of one;

(C) has no spouse but one or more children, [$59 plus $45] *$61 plus $47* for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts [$69] *$72* for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$155] *$162* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$131] *$137* for totally disabled veterans and proportionate amounts for partially disabled veteran in accordance with paragraph (2) of this section.

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Subchapter VI—General Compensation Provisions

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§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$380] *$396* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

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CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
401. Definitions.

* * * * * * *

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

410. Deaths entitling survivors to dependency and indemnity compensation.

* * * * * * *

418. Benefits for survivors of certain veterans rated totally disabled at time of death.

* * * * * * *

Subchapter II—Dependency and Indemnity Compensation

§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) * * *

[(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veterans dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving

spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veterans' death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

[(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

[(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependence and indemnity compensation under section 411(a) of this title.]

[(c)] *(b)* Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$518	W–4	$743
E–2	534	O–1	656
E–3	548	O–2	677
E–4	583	O–3	725
E–5	598	O–4	766
E–6	611	O–5	845
E–7	641	O–6	952
E–8	677	O–7	1,029
E–9	[1] 707	O–8	1,128
W–1	656	O–9	1,210
W–2	682	O–10	[2] 1,327
W–3	702		

[[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

[[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,422.]

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	*$540*	*W-4*	*$744*
E-2	*556*	*O-1*	*684*
E-3	*571*	*O-2*	*705*
E-4	*607*	*O-3*	*755*
E-5	*623*	*O-4*	*798*
E-6	*637*	*O-5*	*880*
E-7	*668*	*O-6*	*992*
E-8	*705*	*O-7*	*1,072*
E-9	[1] *737*	*O-8*	*1,175*
W-1	*684*	*O-9*	*1,261*
W-2	*711*	*O-10*	[2] *1,383*
W-3	*731*		

[1] *If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $795.*

[2] *If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,482.*

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by **[**$60**]** *$63* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[**$155**]** *$162* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[**$76**]** *$79* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

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§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, **[**$261**]** *$272;*

(2) two children, **[**$376**]** *392;*

(3) three children, **[**$486**]** *$506;* and

(4) more than three children, **[**$486, plus $97**]** *$506, plus $101* for each child in excess of three.

* * * * * * *

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by [$155.] *$162.*

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$261.] *$272.*

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$133.] *$139.*

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§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) The Administrator shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty.

(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

(1) the marriage to the veteran occurred before the expiration of 15 years after the veteran's discharge or other release from active duty;

(2) the surviving spouse was married to the veteran for one year or more; or

(3) a child was born of the marriage or was born to them before the marriage.

(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.

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CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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Subchapter II—Veterans' Pensions

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NON-SERVICE-CONNECTED DISABILITY PENSION

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§ 524. Temporary program of vocational training for certain new pension recipients

(a)(I) [Subject to paragraph (3) of this subsection, in] *In* the case of a veteran under the age of 50 who is awarded pension during the program period, the Administrator shall determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such determination shall be made only after evaluation of the veteran's potential for rehabilitation, and any such evaluation shall include a personal interview of the veteran by a Veterans' Administration employee who is trained in vocational counseling. If the veteran fails, for reasons other than those beyond the veteran's control, to participate in the evaluation in the manner required by the Administrator in order to make such determination, the Administrator shall suspend the veteran's pension for the duration of such failure.

(2) [Subject to paragraph (3) of this subsection, if a veteran who is 50 years of age or older and who is awarded pension during the program period] *In the case of a veteran over the age of 50 who is awarded pension during the program period, or any veteran who was awarded pension before the beginning of the program period, if such veteran* applies for vocational training under this section and the Administrator makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program under subsection (b) of this section, the veteran has a good potential for achieving employment, the Administrator shall provide the veteran with an evaluation in order to deter-

mine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such evaluation shall include a personal interview by a Veterans' Administration employee trained in vocational counseling.

[(3) Not more than 3,500 veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.]

[(4)] *(3)* For the purposes of this section, the term "program period" means the period beginning on February 1, 1985, and ending of January 31, [1989] *1992.*

(b)(1) * * *

* * * * * * *

(4) A veteran may not begin pursuit of a vocational training program under this subsection after the later of (A) January 31, [1989] *1992,* or (B) the end of a reasonable period of time, as determined by the Administrator, following either the evaluation of the veteran under subsection (a) of this section or the award of pension to the veteran as described in subsection (a)(2) of this section. Any determination by the Administrator of such a reasonable period of time shall be made pursuant to regulations which the Administrator shall prescribe.

* * * * * * *

§ 525. Temporary protection of health-care eligibility

(a) * * *

(b) For the purposes of this section:

(1) The term "terminated by reason of income from work or training" means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.

(2) The term "program period" means the period beginning on February 1, 1985, and ending on January 31, [1989] *1992.*

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